

GOVERNMENT OF TELANGANA  
ABSTRACT

Public Servants - Sri V.Sundaraiah, Prohibition & Excise Sub-Inspector (Retd) - Granting of notional seniority in the category of Junior Assistant on par with his junior - Implementation of the orders of Hon'ble Tribunal dated 19.11.2013 in O.A.No.3025/2010 - Orders - Issued.

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REVENUE (EXCISE-I) DEPARTMENT

G.O.RT.No. 107

Dated: 12-03-2015

Read the following:

1. From the Prohibition & Excise Superintendent Mahabubnagar, Cr.No A1/2017/97 dated 13.07.2000.
2. Hon'ble APAT orders dt.6.9.2000 in O.A.No.5203/2000.
3. From the Dy Commr.Proh. & Excise Hyderabad Progs.No. Cr.No.3805 /2000/A2, dated.01.02.2001.
4. Govt.Memo.No.38593/Ex-I(2)/2005-2, dated. 20.03.2006.
5. Hon'ble APAT orders dt.17.12.2009 in O.A.No.3736/2006.
6. Govt.Memo.No.38593/Ex-I(2)/2005-4, dated. 27.3.2010
7. Hon'ble APAT orders dt.19.11.2013 in O.A.No.3025/2010.
8. From the Commr.Proh. & Excise Hyderabad Cr.No.275/2010/CPE/B4 dated.27.08.2014

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ORDER:

The Commissioner of Prohibition and Excise, Hyderabad has reported that Sri V.Sundaraiah was appointed as Helper on 01.10.1970 and subsequently absorbed against the post of Excise Constable on 11.10.1981 and further appointed as Tree Marker on 01.05.1984 and subsequently promoted as Junior Assistant on 13.01.1987, since all these posts held by him prior to promotion as Junior Assistant falls under class-IV Category. He was retired in the cadre of Sub-Inspector on 31-12-2004 on attaining the age of superannuation.

2. Sri Mohd. Saleem was appointed as Excise Constable in class-IV category in the year 1972. He was thus, junior to Sri V.Sundaraiah in class-IV category. But he was given promotion as Junior Assistant in the year 1980.

3. The plea of Sri V.Sundaraiah was that though he was fully qualified to hold the post of Junior Assistant and senior to Sri Mohd. Saleem his case for promotion to the post of Junior Assistant has not been considered in the year 1980 on par with Sri Mohd.Saleem. But, his claim was rejected by Prohibition & Excise Superintendent, vide reference 1<sup>st</sup> read above. Aggrieved, he filed O.A.No.5203/2007 before the APAT. The Tribunal disposed off the said O.A. on 06.09.2000 setting aside the impugned rejection orders with a direction to examine the issue of the applicant on par with Sri Mohd.Saleem.

(Contd..P..2)

4. Based on the above direction, the Deputy Commissioner, Hyderabad issued orders vide reference 3<sup>rd</sup> read above fixing the seniority of Sri V.Sundaraiah, Junior Assistant w.e.f. 21.04.1980 on par with Sri Mohd.Saleem. However, the matter was referred to Government by the Commissioner seeking ratification of the action in issuing notional placement in respect of Sri V.Sundaraiah, noticing that the affected persons were not served with notices and rule 33(a) was not relaxed in favour of the individual. The Government after examination issued a show cause notice calling for his explanation on the proposed rejection of his plea on certain grounds. Instead of filing his reply to the said show cause notice, the individual has filed O.A.No. 3736/2006, before the Andhra Pradesh Administrative Tribunal. The Tribunal has disposed off the said O.A. on 17.12.2009 by allowing O.A. in part, duly setting aside the impugned Memo No.38593/Ex-I(2)/2005-2, dated 20.03.2006, however, with a direction to examine the case of the applicant afresh and decide the question of notional seniority after affording opportunity to the affected parties.

5. In pursuance of the above directions of the Tribunal, his case was once again examined, and observed that;

- i) the applicant was opted for promotion to the post of Excise Constable from the category of Helper and took conversion as Tree marker on promotion in the executive line.
- ii) He switched back to the post of Junior Assistant and got promotion as Excise Sub-Inspector.
- iii) There is no evidence that Sri V.Sundaraiah had claimed for promotion to the post of Junior Assistant when Sri Mohd. Saleem was promoted to the post of Junior Assistant in the year 1980.

6. In view of the above, Government has rejected the claim of Sri V.Sundaraiah, for notional promotion as Junior Assistant on par with Sri Mohd Saleem vide Government Memo reference 6<sup>th</sup> read above.

7. Aggrieved by the above rejection orders, Sri V. Sundaraiah has again filed O.A. No.3025/2010 before Tribunal. The Tribunal in its orders dated 19.11.2013 has set-aside the impugned Memo dated 27.03.2010 with a direction to consider the case of the applicant for notional seniority in the category of junior assistant on par with his junior with all consequential benefits. The observation made by the Hon'ble Tribunal there was that in common seniority of Excise Constables, Tree markers, Attenders, the applicant is senior to Sri Mohd Saleem, since he was appointed as Helper in 1970 i.e., prior to Sri Mohd Saleem and the rule 26 (d) of A.P.State and Subordinate Service Rules 1996 is not attracted in this case as the issue pertains to the year 1980 when 1962 rules were in force.

8. Government after careful examination, have observed that Sri V.Sundaraiah, was appointed as Helper in the year 1970 whereas, Sri Mohd Saleem as Excise Constable in the year 1972. Both the categories falls under A.P. Last Grade Service Rules, 1961. As per the Service Rules pertaining to Excise Department the incumbents working under A.P. Last Grade Service Rules have the option to elect for further promotion as Junior Assistant or as Head Constable. In the common seniority list, in the category of A.P. Last Grade Service Rules, the name of Sri V.Sundaraiah normally shall be above the name of Sri Mohd Saleem. But, Sri V.Sundaraiah was promoted as Junior Assistant in the year 1987, whereas Sri Mohd Saleem junior promoted as Junior Assistant in the year 1980. Thus, the grievance of Sri V.Sundaraiah appears to be genuine. The Tribunal also observed and stressed the above version in their orders in O.A. No. 3025/2010. It has therefore been decided to admit his claim by condoning the delay in filing Appeal and to sanction him notional seniority with effect from 21.04.1980 i.e., the date of his junior Sri Mohd Saleem was promoted as Junior Assistant with all consequential benefits.

9. Government accordingly, in relaxation of Rule 26(d) of A.P. State and Subordinate Service Rules hereby admitted his appeal petition by condoning the delay in filing of Appeal and hereby accord permission for assigning notional seniority to Sri V.Sundaraiah, Prohibition & Excise Sub-Inspector (Retd) in the category of Junior Assistant from 21.04.1980 i.e., the date of his junior Sri Mohd Saleem was promoted as Junior Assistant, with all consequential benefits as per the orders of Hon'ble Tribunal dated 19.11.2013 in O.A.No.3025/2010 in relaxation of Rule 33(a) of APSSS Rules, 1996 in favour of individual.

10. The Commissioner of Prohibition & Excise, Telangana, Hyderabad, shall take necessary further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

B.R.MEENA  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The Commissioner of Prohibition and Excise,  
Telangana, Hyderabad.  
The Individual through the Commissioner of Prohibition and  
Excise, Telangana, Hyderabad

Copy to:

The Government Pleader for Revenue (Ser)  
Andhra Pradesh Administrative Tribunal, Hyderabad.  
Sf/Sc.

// Forwarded :: By Order//

SECTION OFFICER